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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JESSE MORENO,  
  
Defendant.

CR 95-00345-RSWL-10

**ORDER re: MOTION FOR  
COMPASSIONATE RELEASE  
[10548]**

Currently before the Court is Defendant Jesse Moreno's ("Defendant") Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A) (the "Motion") [10548]. Having reviewed all papers submitted pertaining to this Motion, the Court **NOW FINDS AND RULES AS FOLLOWS:** the Court **DENIES** the Motion.

**I. BACKGROUND**

On May 30, 1997, Defendant was convicted on four counts related to his participation in or involvement with the Mexican Mafia (known also as "La Eme"). J. &

1 Commitment, ECF No. 1838. The four counts involved  
2 Defendant's participation in a conspiracy to commit  
3 murder in violation of the Racketeer Influenced and  
4 Corrupt Organizations Act ("RICO") and Violent Crimes in  
5 Aid of Racketeering statute ("VICAR"). First  
6 Superseding Indictment, ECF No. 360. The Court  
7 sentenced Defendant to life imprisonment. J &  
8 Commitment.

9 On July 6, 2017, this Court denied [10486]  
10 Defendant's Motion to Vacate, Set Aside, or Correct  
11 Sentence Pursuant to 28 U.S.C. § 2255. The Ninth  
12 Circuit summarily affirmed [10500] this Court's order on  
13 December 17, 2019. Defendant filed the instant Motion  
14 [10548] on November 22, 2021, seeking early release due  
15 to his age, numerous health conditions, and  
16 rehabilitative efforts. The Government opposed [10552]  
17 the Motion on December 22, 2021. Defendant replied  
18 [10553] on January 6, 2022.

## 19 II. DISCUSSION

### 20 A. Legal Standard

21 The First Step Act of 2018, Pub. L. No. 115-391,  
22 132 Stat. 5194, permits a defendant to directly petition  
23 the district court for a sentence reduction under the  
24 compassionate release statute. See 18 U.S.C. §  
25 3582(c)(1). Section 3582(c)(1) permits a court to grant  
26 a motion for compassionate release where: (1) the  
27 defendant has exhausted his administrative remedies; (2)  
28 "extraordinary and compelling reasons" warrant a

1 reduction in sentence, which may be found in any  
2 applicable policy statements issued by the Sentencing  
3 Commission; and (3) the reduction is consistent with the  
4 applicable factors set forth in § 3553(a). United  
5 States v. Rodriguez, 424 F. Supp. 3d 674, 680 (C.D. Cal.  
6 2019) (citations omitted).

7 The Ninth Circuit recently clarified that currently  
8 no "applicable policy statements" define what reasons  
9 are sufficiently "extraordinary and compelling" to  
10 warrant compassionate release when requested by the  
11 defendant. United States v. Aruda, 993 F.3d 797, 802  
12 (9th Cir. 2021). "The Sentencing Commission's  
13 statements in U.S.S.G. § 1B1.13 may inform a district  
14 court's discretion for § 3582(c)(1)(A) motions filed by  
15 a defendant, but they are not binding." Id.

## 16 **B. Discussion**

17 The Court need not address whether extraordinary  
18 and compelling circumstances exist here because the  
19 Court finds that the § 3553(a) factors do not weigh in  
20 favor of release. When reviewing a motion for  
21 compassionate release, courts are required to consider  
22 various factors including: (1) the nature and  
23 circumstances of the offense and the history and  
24 characteristics of the defendant; (2) the need to  
25 reflect the seriousness of the offense, to promote  
26 respect for the law, and to provide just punishment for  
27 the offense; (3) the need to afford adequate deterrence  
28 to criminal conduct; (4) the need to protect the public

1 from further crimes of the defendant; and (5) the need  
2 to provide the defendant with needed educational or  
3 vocational training, medical care, or other correctional  
4 treatment in the most effective manner. 18 U.S.C. §  
5 3553(a); 18 U.S.C. § 3582(c).

6 Here, Defendant was convicted of violent crimes  
7 involving conspiracies to commit murder in order to  
8 further the aims of La Eme. Defendant had agreed, along  
9 with his co-conspirators, to lure one of their targets  
10 to a La Eme meeting where the target would be murdered.  
11 PSR ¶¶ 122-127. Moreover, Defendant had been classified  
12 as a career offender due to his prior criminal history,  
13 which included a ten-year imprisonment after Defendant  
14 robbed a victim at knifepoint. Id. ¶¶ 280, 284. Given  
15 the premeditated nature of Defendant's crime and his  
16 lengthy criminal history, the Court cannot conclude that  
17 Defendant's release is warranted. To hold otherwise  
18 would undermine the Court's need "to promote respect for  
19 the law," "to provide just punishment for the offense,"  
20 and "to afford adequate deterrence to criminal conduct."  
21 18 U.S.C. § 3553(a); United States v. Jefferson, No.  
22 2:17-cr-00130-MCE, 2021 WL 4033248, at \*3 (E.D. Cal.  
23 Sept. 3, 2021) (holding that "requiring Defendant to  
24 serve his full sentence" was necessary to achieve the  
25 aims enumerated in § 3553(a)).

26 Defendant claims that he poses no danger to the  
27 community because "persons in his age group are  
28 extremely unlikely to commit a crime" and because he is

1 no longer associated with La Eme. See Mot. 17:23-18:8;  
2 Reply 3:4-18. However, Defendant presents no evidence  
3 that he has cut his ties with La Eme. And "[r]egardless  
4 of Defendant's age, the danger that he poses to the  
5 community is not necessarily 'that he will personally  
6 engage in acts of violence, but that he can command  
7 others to do so.'" United States v. Shyrock, No. CR 95-  
8 345-RSWL-16, 2020 WL 7773887, at \*3 (C.D. Cal. Dec. 30,  
9 2020) (quoting United States v. Gotti, 433 F. Supp. 3d  
10 613, 620 (S.D.N.Y. 2020)). While the Court appreciates  
11 Defendant's rehabilitative efforts and sympathizes with  
12 Defendant's health concerns, the Court cannot conclude  
13 that Defendant poses no danger to the community. See  
14 United States v. Verdugo, No. 2:14-cr-00341-TLN, 2020 WL  
15 5257747, at \*2 (E.D. Cal. Sept. 3, 2020).

16 In sum, the severity of Defendant's criminal  
17 conduct, his lengthy criminal history, and the potential  
18 danger posed by his release all weigh against  
19 compassionate release. See United States v. Bisel, No.  
20 10CR5016-H, 2021 WL 3634830, at \*5 (S.D. Cal. Aug. 16,  
21 2021).

### 22 III. CONCLUSION

23 Based on the foregoing, the Court **DENIES**  
24 Defendant's Motion.

25 **IT IS SO ORDERED.**

26  
27 DATED: January 28, 2022

/s/ Ronald S.W. Lew

**HONORABLE RONALD S.W. LEW**  
Senior U.S. District Judge